



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of inventor Freire

Serial No. 09/950,047

Group Art Unit: 2839

Filed: 09/12/2001

Examiner: NA

For: **"STRUCTURAL PREDICTION OF ALLOSTERISM"**

Assistant Commissioner for Patents

Washington, D.C. 20231

PETITION IN RESPONSE TO NOTICE OF OMITTED ITEMS

Patent No: 09/19/2002 AKELLEY
03/22/2002 SFELEKE1 00000007 09950047
FC:122 -130.00 DP
Ref: 09/12/2001 AKELLEY 09/4513800
03/22/2002 SFELEKE1 00000007 09950047
FC:122 -130.00 DP

Dear Sir,

This petition is in response to a Notice of Omitted Items in a Nonprovisional Application.

The facts of the case are as follows:

1. On September 12, 2001, Applicant filed the above-referenced patent application in the USPTO. The application contained 21 pages in the specification. Applicant submits herein as Exhibit A, a copy of a postcard stamped by the USPTO, acknowledging receipt of the application.
2. On February 27, 2002, Applicants received a Notice of Omitted Items in a Nonprovisional Application (mailing date, 02/25/2002). The Notice alleges that page 17 of the specification appears to have been omitted from the application.
3. Upon receipt of the Notice, the undersigned checked the file associated with this case (attorney docket 03940014aa) and found that the copy of the application in the file is complete, i.e. page 17 is present in the copy of the application in the file. A second copy of page 17 of the application is provided to the USPTO with the attached preliminary amendment.
4. Applicant submits that the usual practice of the undersigned is to print a copy of the application from an electronic file. Standard procedure is that the first printed copy is then

checked by the undersigned for completeness and then given to an assistant to make copies for filing in the USPTO and to transmit to the client. All assistants are well aware of the necessity of filing a complete copy of the application and routinely check the page numbers of the specification of all copies, as well as the drawings, to insure that all sheets are present.

5. On March 19, 2002, Applicant's representative checked with the client, the Office of Technology Transfer of the John's Hopkins University in order to ascertain whether or not the client copy of the application. Applicant's representative was informed that the client's copy was complete, i.e. that the "reporting" copy of the application which was sent to the client contained all pages, including page 17.

6. Applicant's representative has also checked the firm's file of the International Patent Application (PCT/US01/28298) corresponding to the present US application. The international application was filed on the same day as the US application (September 12, 2001), was copied from the same "first copy", and is complete, i.e. page 17 is present in the firm's file copy of the corresponding International application.

7. The undersigned declares that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent resulting therefrom.

Given these facts, Applicant submits that it is likely that the copy of the application that was originally filed in the USPTO was also complete. Further, Applicant submits that the most likely scenario is that page 17 was lost during processing of the application papers at the USPTO through no fault of Applicant.

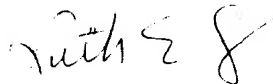
Applicant therefore respectfully requests that page 17 be reassociated with the application, and that the application be accorded a filing date of September 12, 2001 without penalty to Applicant.

09/095,565

If for any reason this petition is not granted, the undersigned requests that the application be accorded a filing date of September 12, 2002, and that the concurrently filed preliminary amendment be given favorable consideration.

A check for \$130.00 is attached hereto to pay the petition fee. If any additional fees are due for granting the petition, granting the filing date, or entering page 17, the Commissioner is authorized to charge attorney's deposit account #50-2041. However, since the error in this case appears to be on the part of the USPTO, no fees should be due. If the USPTO concurs, please refund the \$130.00 to the same account.

Respectfully submitted,



Ruth E. Tyler-Cross

Reg. No. 45,922

703-787-9400



30743

PATENT TRADEMARK OFFICE



REQUEST FOR EARLY NOTIFICATION OF SERIAL NUMBER

Docket No. 0374001444 In re: ✓ patent/ trademark application of

E. FREIRE

For

Structural Prediction of Alzheimer's

21 Pages in Specification No. of claims 1 independent; dependent]

3 Sheets of Drawings Abstract Specimens

✓ Transmittal Sheet ✓ Fee Calculation Form

✓ Combined Declaration and Power of Attorney Ver. Stmt/Sm Entity Status

 Assignment Recordation Form Cover Sheet

 Information Disclosure Statement PTO-1449 and associated art (docs.)

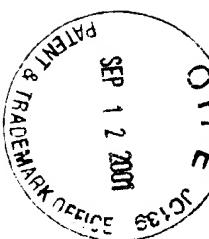
 Priority Document(s) Other incomplete filing

 Fees \$ 114 Deposit Account No. (if applicable) no fee

 filing fee; Assignment charge; Extra Claims fee)

SERIAL NO. 0394001444

Client Matter No. 0374001444 Atty: Asst. ETC:ANA





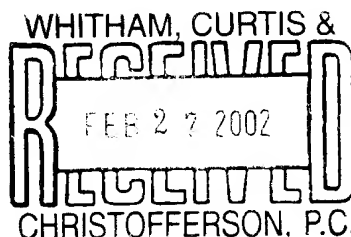
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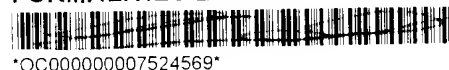
APPLICATION NUMBER	FILING RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/950,047	09/12/2001	Ernesto Freire	03940014AA

CONFIRMATION NO. 8669

McGuireWoods, LLP
1750 Tysons Blvd, Suite 1800
McLean, VA 22102



FORMALITIES LETTER



OC000000007524569

Date Mailed: 02/25/2002

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Page(s) 17 of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

A copy of this notice MUST be returned with the reply.

J. Stokes

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY